the damage suffered. *McBride v. Scott* (1903) 132 Mich. 176, 93 N. W. 243. This seems scarcely tenable; for anything received by the plaintiff in satisfaction will reduce *pro tanto* his recovery against the other defendants. 34 *Cyc.* 1089. Hence a satisfaction complete in fact will bar suit against any. *Johnson v. Von Scholly* (1914) 218 Mass. 454, 106 N. E. 17; *Wagner v. Chicago, etc. Ry. Co.* (1914) 265 Ill. 245, 106 N. E. 809. All the above discussion is to be taken with due regard to means of proving intention expressed in writing; for instance, to the conclusiveness of recitals under seal. See *Johnson v. Von Scholly, supra.* For discussion of the effect of releasing one joint tortfeasor against whom the other has a claim for indemnity, see COMMENTS (1915) 24 YALE LAW JOURNAL, 505.

NEGLIGENCE—VIOLATION OF TRAFFIC LAW NOT NEGLIGENCE PER SE.—The Traffic Act of New Jersey, Pub. L. 1915, ch. 156, sec. 2 (6), provides that "a vehicle turning into another road to the left, shall, before turning, pass, when possible, to the right of and beyond the center of the intersection of the two roads." The defendant in his automobile turned a corner without complying with the above directions, and collided with and injured the plaintiff on his motorcycle. The lower court directed a verdict for the plaintiff on the ground that such non-compliance constituted *per se* a tortfeasance, and the defendant appealed. *Held,* that the direction of a verdict was error, since the violation of the traffic law by the defendant was only one element to be left with the others to the jury. *Winch v. Johnson* (1918, N. J. Ct. Er.) 104 Atl. 81.

The Traffic Act further provides, sec. 4 (1), for right of way at an intersection to the vehicle approaching from the right. The plaintiff, who desired to turn off, gave the proper statutory signals; the defendant, who had the right of way, failed to slow down from some 25 miles an hour, and a collision of the automobiles resulted. The plaintiff recovered judgment. *Held,* that the judgment was correct, since the right of way conferred by the statute was not absolute, with a *dictum* that compliance with the Traffic Act did not *per se* relieve a man of the common law duty to observe existing conditions and guide his machine accordingly. *Paulsen v. Klinge* (1918, N. J. Sup. Ct.) 104 Atl. 95.

The express "when possible" provision of the statute in the *Winch Case* merely gives legislative sanction to results very generally reached even without such provision. See *Temple v. Walker* (1917, Ark.) 192 S. W. 200; *Heryford v. Spitcaufsky* (1917, Mo. App.) 200 S. W. 123. But the effect in law of rules of the road is neither uniform, nor, it would seem, wholly settled. It seems clear that they free the driver of a vehicle from having to look out for violation of them under pain, in case of collision, of being held negligent: so as to render him liable as a defendant, or to bar his action as a plaintiff. *Ballard v. Collins* (1911) 63 Wash. 493, 115 Pac. 1050 (plaintiff); see *Cook Brewing Co. v. Ball* (1899) 22 Ind. App. 656, 665; 52 N. E. 1002, 1004 (defendant). It is clear on the other hand that observance of those rules does not in itself relieve a defendant of liability for collision, nor, it would seem, prove a plaintiff free from contributory negligence. *Erwin v. Traud* (1917, N. J. Ct. Er.) 100 Atl. 184, L. R. A. 1917 D, 690 and note. Despite the language of some courts in special circumstances, as in *Freeman v. Green* (1916, Mo. App.) 186 S. W. 1166, it seems also clear both that non-compliance with road regulations is not negligence *per se,* but may be excused by circumstances, and that the last clear chance doctrine applies to both plaintiff and defendant. See cases cited (1913) 41 L. R. A. (N. S.) 322, 337, 346. In Colorado, indeed, the plaintiff's failure to keep a lookout for a vehicle which had the right of way seems to have been held *per se* contributory negligence. *Livingston v. Barney* (1917, Colo.) 163

Pac. 863. But it is believed that the plaintiff's position should be governed as to negligence *per se* by the same principles which in the *Winch Case* and the mass of authorities are applied to the defendant. In the case of speed laws, too, either the statutes or the courts generally make allowance for varying conditions of traffic in determining the violation of their letter to be negligence. *Irwin v. Judge* (1909) 81 Conn. 492, 71 Atl. 572. But where exceeding the speed limit is itself shown to have been the proximate cause of the damage, Minnesota has held such violation to be negligence *per se*. *Riser v. Smith* (1917, Minn.) 162 N. W. 520. It is believed that the better rule considers the fact of the violation of such a law or ordinance to raise a presumption of negligence, sufficient to cause a directed verdict in the absence of any other showing, but rebuttable. *Hartje v. Moxley* (1908) 235 Ill. 164, 85 N. E. 216 (by statute as to motor vehicles). And it is believed that the language of other courts which seem to hold such violation to be negligence *per se* would and should be read in proper circumstances to accord with the rule here suggested. *Cf. National Casket Co. v. Powar* (1910) 137 Ky. 156, 125 S. W. 279. That rule makes due allowance for variation of circumstances, while enforcing a presumption which fits the thinking of the people at large. A similar presumption has been occasionally enforced in rule of the road cases. *Buxton v. Ainsworth* (1904) 138 Mich. 532, 101 N. W. 817. It is submitted that sound growth of the law calls for violation of such road laws, instead of being merely one fact sufficient to go to the jury and to sustain a verdict, to be held broadly to raise a rebuttable presumption of negligence or contributory negligence in the violator. Tested by this the rule in *Paulsen v. Klinge* is wholly satisfactory; also that in *Winch v. Johnson,* so far as that case refuses to hold the defendant's conduct negligence *per se;*. but that decision may, it is believed, be properly criticized for failure to raise the presumption here suggested.

TAXATION—INHERITANCE AND TRANSFER TAXES—TAX ON POWER OF APPOINTMENT EXERCISED BY DEED.—A testator who died in 1876, before any statute imposed an inheritance or transfer tax, devised real estate in New York City, giving to his son a life estate, with power to appoint in fee by deed or will to his issue or to his sisters or their issue, and limiting the remainder in case of a failure to appoint, to the son's issue or, in default of issue, to his sisters. In 1911 the son exercised the power of appointment and conveyed the property, including his own life estate, to his sisters in different proportions and interests. They immediately took possession. Three years later the son died, and proceedings were instituted to levy a tax upon his estate in respect to these lands, pursuant to section 220 of the New York Transfer Tax Law. The Surrogate confirmed a tax based upon the value of the lands at the date of the conveyance less the value of the son's life estate therein. The Appellate Division reversed this decision. *Held,* that the exercise of the power of appointment was taxable under the statute and that such a tax was constitutional. *In re Wendel's Estate* (1918, N. Y.) 119 N. E. 879.

Under the legislation of some of the states the creation of a power of appointment by the donor rather than its exercise by the donee is regarded as the act which effects a taxable transfer. *Kansas v. U. S. Trust Co.* (1917) 99 Kan. 841, 163 Pac. 156; see Ross, *Inheritance Taxation,* 106. But New York and certain other states have legislated upon the opposite theory. The principal case presents for the first time to the New York Court of Appeals the important question whether an appointment by deed not made in contemplation of death is a taxable transfer. The initial inquiry is, of course, one of construction of the statutory language. The sixth subdivision of section 220 of the Transfer Tax